IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 3324 of 2007()

ST.130/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II(FOREST OFFENCES), MANJERI

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PETITIONER: ACCUSED

THANKA, W/O. SUBRAMANIAN,
AMBAT PANICHIYIL HOUSE, VETTAM P.O.,
TIRUR-676 101.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS: COMPLAINANT/STATE

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1. SHRI RAM INVESTMENT LTD.,ADMN.OFF.,
MOOKAMBIKA COMPLEX, 3RD FLOOR,4 LADY DESIKA ROAD,
MYLAPORE,CHENNAI-600 004,BR.AT MANJERI,REP. BY
P/A.HOLDER N.SUNIL,31 YRS,S/O.LATE SREENIVASAN,
SENIOR FIELD OFFICER,SHRIRAM INVESTMENT,PADMA SREE
ARAKINAR,KOZHIKODE MUNICIPAL CORPORATION.

2. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3324 of 2007

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Dated this the 1st day of November, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. On a complaint filed by the complainant/respondent herein, the learned Chief Judicial Magistrate, Manjeri has taken cognizance. The case was thereupon made over to the J.F.M.C.-II, (Forest) Manjeri. The petitioner has already appeared before the learned Magistrate and he has been enlarged on bail. It is the grievance of the petitioner that the learned Magistrate has no territorial jurisdiction. The averments in the complaint clearly show that the cheque was given at the branch of the complainant at Manjeri and it was presented for collection at the complainant's bank at Manjeri.

2. According to the learned counsel for the petitioner, the place where the cheque is handed over cannot determine

the jurisdiction. I am afraid, that this contention cannot be accepted, in the light of the very clear stipulations in the leading decision on the point in **Bhaskaran** v. **Balan** (1999 (3) KLT 440 (SC)). The place where the cheque is drawn is specified as the first of the many places where a complaint can be entertained. There cannot possibly be a contention that the cheque is not drawn at the place where it is handed over. The challenge against jurisdiction cannot hence be accepted in the light of the very specific averment in the complaint that the cheque was given to the branch of the complainant at Manjeri.

3. The petitioner has other hazards also to surmount. Cognizance has been taken by the Chief Judicial Magistrate, who, in law, has competence to entertain the complaint in respect of any cause of action in the District. After taking cognizance, the Chief Judicial Magistrate had made over the complaint and the question therefore strictly is, whether such court to which it is made over has territorial jurisdiction. Even without territorial jurisdiction the

court to which the complaint is made over by the C.J.M. can certainly entertain the same.

4. Lastly the learned counsel submits that the petitioner, a woman, is permanently residing at Tirur. If unnecessary insistence is made for personal presence of the petitioner, it will cause great hardship and difficulties to the petitioner. It is for the petitioner to file application under Section 205 Cr.P.C. for permanent exemption before the learned Magistrate and I can find no reason why the petitioner should not be permitted to appear before the learned Magistrate through her counsel, exempting her from personal presence.

3. This Crl.M.C. is accordingly dismissed with the above observations.

(R. BASANT)
Judge

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